

TOWN COUNCIL MINUTES

JANUARY 4, 2010

The regularly scheduled meeting of the Hampden Town Council was held on Monday, January 4, 2010. The meeting was held at the municipal building council chambers and was called to order by Attorney Thomas Russell at 7:00 p.m.

Attendance: Councilors: Matthew Arnett, Shannon Cox, Andre Cushing, Janet Hughes, Thomas Brann, Jean Lawlis and William Shakespeare

Town Manager: Susan Lessard

Town Counsel: Thomas Russell

Department Heads/Staff: Town Planner Bob Osborne, Code Enforcement Officer Ben Johnson and GIS/IT Specialist Gretchen Heldmann

James Kiser, Eugene Weldon, Alex King and citizens

The first order of business was the swearing in of Councilors At-Large Matthew Arnett, Andre Cushing and Shannon Cox by Attorney Russell.

Councilor Cushing nominated Matthew Arnett for Mayor; seconded by Thomas Brann. Attorney Russell closed nominations and vote was unanimously in favor. Mayor Arnett was sworn in by Attorney Russell.

Mayor Arnett asked for nominations for Deputy Mayor. Councilor Hughes nominated Andre Cushing; seconded by Councilor Shakespeare. Mayor Arnett closed nominations and vote was unanimously in favor. Deputy Mayor Cushing was sworn in by Attorney Russell.

A. CONSENT AGENDA

Motion by Councilor Cushing, seconded by Councilor Brann to accept the Consent Agenda – unanimous vote in favor.

B. PUBLIC COMMENTS

There were none.

C. POLICY AGENDA

1. PUBLIC HEARINGS

a. **ADOPTION OF DRAFT SHORELAND ZONING ORDINANCE
AND MAP**

Town Planner Bob Osborne introduced the proposed ordinance and map and reported that this draft includes additions and deletions coming out of the Planning Board's public hearings. The Planning Board has returned an "ought to pass" recommendation.

Councilor Hughes inquired whether any changes could be made to the map after it is adopted without going through the public hearing process again. Attorney Russell advised that if it was simply to correct a property line because of a scrivener's error, a public hearing would most likely not be required. However if there are any other changes, it would have to go back to the Planning Board for public hearing.

Councilor Lawlis noted that the definition of "family" is more restrictive than the state model and suggested that maybe it should be revisited to be consistent. She also felt that it wasn't necessary to change the language relative to building height from what the Town is currently using. Attorney Russell advised that the definition of "family" should be the same in both the Zoning Ordinance and the Shoreland Zoning Ordinance, but noted that maybe it is time to take a look at the existing definition which he feels is quite restrictive.

Mayor Arnett explained the procedure for the public hearing and then opened the hearing at 7:36 pm.

Proponents: None

Opponents: Alex King of 807 Kennebec Road stated that he was opposed to the ordinance as presently written. He noted that approximately 5 acres of his property are in a resource protected zone and questioned whether he can selectively cut firewood on his land without a permit and whether he would need to hire a licensed forester.

Code Enforcement Officer Ben Johnson explained that under the ordinance a permit would be required and it would require the involvement of a licensed forester.

Mr. King noted that it would not be cost-effective for him to cut just a couple of cord of wood per year if he has to hire a licensed forester. He said it was his understanding that under the state statute selective cutting on less than 5 acres does not require a licensed forester and he would like to see that part adopted for this ordinance.

Jim Kiser of 15 Constitution Avenue noted that he is a professional engineer and has worked in development activities for over 20

years. He said he has seen the progression of regulatory activities on landowners and the development of the State. He feels that more and more the state is restricting the aspect of creating of jobs, population growth and the economic well-being of its inhabitants. He feels that the Staff has done a good job at overseeing what is required by the State under their draft ordinance, but he thinks that what the State has put forward for towns to accept as a zoning ordinance for the shoreland areas is bad for the state and for the town and there seems to be a duplication of regulations. He also expressed concern that the process to amend the maps would be lengthy. He thinks there will be legislative activity on this in the future and feels that we need to slow down and ask if this is really what we want as a town.

Questions/Comments: Eugene Weldon, Environmental Coordinator for Lane Construction Corp. noted that in their review of the ordinance, it appears that existing activities or property uses in the proposed shoreland zone may continue to operate as they have and will not be impacted by the new ordinance. Attorney Russell cautioned that he could not make such a broad statement – if the use becomes a non-conformity, that interpretation would not be correct. He said there are restrictions on the continuation of non-conformities as to expansion of use, but if it is still a permitted use in the zone, it could continue to operate. He said it would be grandfathered to a certain extent, but there are limitations. Mr. Weldon urged the Council to take some time and look at what some of the surrounding communities are doing.

As a member of the Planning Board, Mr. Weldon noted that he has reviewed the proposed ordinance technically. A number of things came to light and the Planning Board did make some changes based on comments they heard at the public hearing. He did express some concern regarding the map amendment process – how will the Town address each individual lot; will the map amendment need to be approved before the owner can proceed? He noted that the map is a good representation, but is not necessarily what is on the ground.

There was some discussion about what kinds of adjustments could be made to the map without going through the legislative map amendment process.

The hearing was closed at 8:20 pm.

Councilor Cushing noted that the Planning & Development Committee has had a tremendous amount of discussion on this ordinance and he feels that Hampden has taken a very progressive role in how this was addressed with the public. He said it is clear that there are still some individual concerns that may not be completely addressed and he is hoping that they can be addressed in conjunction with the ordinance review in following through with

compliance with the Comprehensive Plan. Based on what he has heard tonight, he noted there seems to still be some confusion as to what we might be able to do and what we may have presented to the public as an option that may not be fully available. He moved to table action on this item pending an opportunity for Planning & Development to review some of these concerns and see if we need to re-address them with the public. Councilor Brann said he would rather see the Council make a motion to accept or reject this and get into the debatable portion of that motion first. Councilor Cushing withdrew his motion to table.

Councilor Cushing then moved to not adopt the Shoreland Zoning draft as written; Councilor Hughes seconded the motion.

Following considerable discussion, roll call vote on the motion was 6-1 (Arnett) in favor; motion carried.

Motion by Councilor Brann, seconded by Councilor Cox to return the draft to the Planning & Development Committee to come back with a new draft within 30 days – unanimous vote in favor.

2. NOMINATIONS-APPOINTMENTS-ELECTIONS

There were none.

3. UNFINISHED BUSINESS

a. 2010 COUNCIL COMMITTEE APPOINTMENTS

The slate of committee appointments was accepted.

4. NEW BUSINESS

a. FEES ORDINANCE AMENDMENT re LIBRARY FEES – INTRODUCTION FOR PUBLIC HEARING

Councilor Brann introduced this item for public hearing.

D. COMMITTEE REPORTS

There were none.

E. MANAGER'S REPORT

A copy of the Manager's Report is attached.

F. COUNCILOR'S COMMENTS

Councilor Hughes commented that the Hampden Business Association will meet tomorrow at Angler's Restaurant at noon.

Councilor Cox commended the Public Works Department for their work in cleaning up the storm over the weekend.

Councilor Cushing wished everyone a Happy New Year. He commented that the dynamics of what happened with the Shoreland Zoning Ordinance this evening should in no way disrespect the Staff and the tremendous amount of time they have put in. He noted that it is a frustrating process for many communities that are recipients of mandates from the State which have certain uniform cookie cutter language that does not always allow us to address things. He said he appreciates invoking home rule whenever possible because one of the reasons we are elected is to do due diligence in protecting the individuals in our community. He noted that there are times when it is better to go slowly and take time to address this.

Continuing on Councilor Cushing's comments, Councilor Brann said that sometimes in the process of taking a long time to review these ordinances, we begin to interpret the meaning of a phrase before we've actually read it and we don't necessarily pick out all the details. He pointed out that this shows the value of the public hearing process.

Councilor Lawlis reiterated "you come, we will listen". She also reflected on the last year and said it has been a real learning experience. She said the best part was working with the all the other Councilors and staff. She noted that next year will be really tough with the budget stresses we will be facing.

Councilor Shakespeare echoed Councilor Lawlis's comments. He noted that he and Councilors Hughes and Lawlis are no longer the "new Councilors" and thanked the past chairs of committees and looked forward to their guidance in the upcoming year as the three of them go on to chair various committees.

There was some question about the committee reappointments included in the Consent Agenda and whether it was the intent to automatically reappoint the applicants or whether the applications were being referred to Council committees for review and recommendation.

Following some discussion, Councilor Brann moved to reconsider the Consent Agenda; Councilor Cushing seconded the motion and vote was unanimously in favor.

Motion by Councilor Brann, seconded by Councilor Cushing to approve the Consent Agenda with the exception of the items dealing with reappointments to committees – unanimous vote in favor.

Motion by Councilor Brann, seconded by Councilor Cox to have the Mayor assign the recommendations for reappointment to appropriate committees to be considered and brought to the Council for the next Council meeting – unanimous vote in favor.

G. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:05 p.m.

A handwritten signature in cursive script, reading "Denise Hodsdon".

Denise Hodsdon
Town Clerk

MANAGER'S REPORT
January 4, 2010

Home Composters - The State Planning Office is doing the Home Composter Program again this year. The deadline for submission of orders for this year is April 30, 2010. This program has been operated by the town with a subsidy for the last 5 years.

Pine Tree Landfill – The last load of waste was delivered to Pine Tree Landfill on December 31st between 3:30 and 4 p.m. Although the landfill will continue to receive construction and demolition debris in the haul-away area, no more waste will be put on the 'mountain'. There will be deliveries of the 'soft layer' of final cover (the layer under the clay layer) over the course of the winter that will be stockpiled for completing the final cover on the final third of the landfill.

Assessor – I am pleased to report that I have hired Kelly Karter of Winslow as the new Assessor for the Town of Hampden. She is currently the assessor for the Town of Winslow and has more than 15 years as a certified Maine Assessor, working in two different communities. She will begin her duties in Hampden the third week of January. I would like to thank Mayor Arnett, Councilor Bill Shakespeare, and Tax Collector Cheryl Johnson for participating in the second interview process.